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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/744,406 | 01/22/2001 | Michael S. Halpern | 7933-38 | 5749 |

23973 7590 03/26/2002

DRINKER BIDDLE & REATH
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

EXAMINER

BANSAL, GEETHA P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1642

DATE MAILED: 03/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09744,406

Applicant(s)

Halpernet al

Examiner

Spectra Bansal

Group Art Unit

1642

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -0- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
(30 days)

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 7/22/01

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claim(s) 1-28 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 sheets ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6, 8-15, 17-18, 19-28, drawn to a cellular immunogen transfected with at least one transgene, a method of making the cellular immunogen and a method of using the immunogen (will be examined to the extent that the cellular immunogen is transfected with one transgene). It appears that claims 17 and 18 were intended to depend from claim 10.

Group II, claim(s) 1-2, 4-11, 13-18, drawn to a cellular immunogen transfected with at several transgenes each encoding a different deletion mutation, a method of making the cellular immunogen (will be examined to the extent that the cellular immunogen is transfected with more than one to several transgenes). It appears that claims 17 and 18 were intended to depend from claim 10.

2. The inventions listed as Groups I, II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The cellular immunogen of Group I is simple and includes one transgene product. The cellular immunogen of Group II includes several transgenes encoding several mutant products. The two products are different in their structural makeup, and the methods of making and using them rely on different steps and reagents.

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3. In the process of examining the claims and reviewing the searches with the intention to complete a first action, it was recognized that there were two independent and distinct groups which were drawn to different products (subject matter), and whose modes of operation would be independent of each other, as well as additional search would be required to include other transgenes. (37 CFR 1.143).

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. Please limit the use of this dedicated Fax number to responses to Written Restrictions.


7. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays from 7:00am to 4:30pm and alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

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9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308-3995.
10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

March 25, 2002


GEETHA P. BANSAL
PRIMARY EXAMINER